or patents which are directly or indirectly dependent upon the application or patent in which the status has been established. A nonprovisional application claiming benefit under 35 U.S.C. 119(e), 120, 121, or 365(c) of a prior application may rely on a verified statement filed in the prior application if the nonprovisional application includes a reference to the verified statement in the prior application or includes a copy of the verified statement in the prior application and status as a small entity is still proper and desired. Once status as a small entity has been established in an application or patent, the status remains in the application or patent without the filing of a further verified statement pursuant to §1.27 of this part unless the Office is notified of a change in status.

(b) Once status as a small entity has been established in an application or patent, fees as a small entity may thereafter be paid in that application or patent without regard to a change in status until the issue fee is due or any maintenance fee is due. Notification of any change in status resulting in loss of entitlement to small entity status must be filed in the application or patent prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate pursuant to §1.9 of this part. The notification of change in status may be signed by the applicant, any person authorized to sign on behalf of the assignee, or an attorney or agent of record or acting in a representative capacity pursuant to §1.34(a) of this part.

(c) If status as a small entity is established in good faith, and fees as a small entity are paid in good faith, in any application or patent, and it is later discovered that such status as a small entity was established in error or that through error the Patent and Trademark Office was not notified of a change in status as required by paragraph (b) of this section, the error will be excused (1) if any deficiency between the amount paid and the amount due is paid within three months after the date the error occurred or (2) if any deficiency between the amount paid and the amount due is paid more than three months after the date the error occurred and the payment is accompanied by a statement explaining how the error in good faith occurred and how and when the error was discovered. The statement must be a verified statement if made by a person not registered to practice before the Patent and Trademark Office. The deficiency is based on the amount of the fee, for other than a small entity, in effect at the time the deficiency is paid in full.

(d)(1) Any attempt to fraudulently (i) establish status as a small entity or (ii) pay fees as a small entity shall be considered as a fraud practiced or attempted on the Office.

(2) Improperly and with intent to deceive

(i) Establishing status as a small entity, or

(ii) Paying fees as a small entity shall be considered as a fraud practiced or attempted on the Office.

(35 U.S.C. 6, Pub. L. 97–247; 15 U.S.C. 1113, 1123)

[47 FR 40140, Sept. 10, 1982, as amended at 49 FR 553, Jan. 4, 1984; 57 FR 2033, Jan. 17, 1992; 58 FR 54509, Oct. 22, 1993; 60 FR 20222, Apr. 25, 1995]

## Subpart B—National Processing Provisions

PROSECUTION OF APPLICATION AND APPOINTMENT OF ATTORNEY OR AGENT

### § 1.31  Applicants may be represented by a registered attorney or agent.

An applicant for patent may file and prosecute his or her own case, or he or she may be represented by a registered attorney, registered agent, or other individual authorized to practice before the Patent and Trademark Office in patent cases. See §§10.6 and 10.9 of this subchapter. The Patent and Trademark Office cannot aid in the selection of a registered attorney or agent.

[50 FR 5171, Feb. 6, 1985]

### § 1.32  [Reserved]

### § 1.33  Correspondence respecting patent applications, reexamination proceedings, and other proceedings.

(a) The residence and post office address of the applicant must appear in the oath or declaration if not stated